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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 57

HON. PAUL G. BRECKENRIDGE, JR., JUDGE

GERALD ARMSTRONG,

Cross-Complainant,

vs.

CHURCH OF SCIENTOLOGY OF CALIFORNIA,

Cross-Defendant.

MARY SUE HUBBARD,

Intervenor.

No. C 420 153

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Thursday, December 11, 1966

APPEARANCES:

For the Cross-Complainant:

CONTOS & BUNCH  
By: JULIA DRAGOJEVIC and  
MICHAEL FLYNN  
5855 Topanga Canyon Boulevard  
Suite 400  
Woodland Hills, California 913677

For the Cross-Defendant:

PETERSON & BRYNAN  
By: JOHN G. PETERSON  
8530 Wilshire Boulevard, Suite 407  
Beverly Hills, California 90211

(Appearances Continued Inside)

COPY

NANCY L. HARRIS, CSR No. 644  
Official Reporter

EXHIBIT B

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APPEARANCES: (Continued)

For the Founding  
Church of Scientology  
and Intervenor:

MICHAEL LEE HERTZBERG  
Pro Hac Vice  
275 Madison Avenue  
New York, New York 10016

Also Present:

LAWRENCE E. HELLER

1 LOS ANGELES, CALIFORNIA; THURSDAY, DECEMBER 11, 1986; 4:03 P.M.

2 ---oOo---

3  
4 THE COURT: All right. The parties are here on Armstrong  
5 versus Church of Scientology.

6 MR. FLYNN: We are here.

7 After lengthy negotiations, Your Honor, between  
8 myself and Mr. Hertzberg on behalf of the Church and  
9 Mary Sue Hubbard, we are extremely happy to report to the  
10 court that the court will not have to try this case, this  
11 counterclaim in March.

12 The parties have received the case to the satis-  
13 faction of Mr. Armstrong and to myself and to Mr. Hertzberg's  
14 client.

15 THE COURT: How about Miss Dragojevic?

16 MS. DRAGOJEVIC: I think I will go along with it.

17 MR. PETERSON: Maybe we should identify ourselves for  
18 the record.

19 THE COURT: Yes, probably a good idea.

20 MR. FLYNN: Michael Flynn for Gerald Armstrong.

21 MS. DRAGOJEVIC: Julia Dragojevic for Gerald Armstrong.

22 MR. HELLER: Lawrence Heller, and I am here in case there  
23 were any questions. I had a little input in the settlement.

24 MR. PETERSON: John Peterson for the Church of  
25 Scientology of California.

26 MR. HERTZBERG: Michael Lee Hertzberg for Mary Sue  
27 Hubbard, who is the intervenor in the underlying original case  
28 of the Church of Scientology against Gerald Armstrong.

1 MR. FLYNN: Pursuant to the settlement, Your Honor, the  
 2 parties have entered into a stipulation which we will provide  
 3 the court to have the return of all documents to the Church  
 4 with the exception of six documents which are currently under  
 5 litigation in United States versus Scientology, the case that  
 6 the government is trying to get six exhibits on, and the order  
 7 that we provided to the court contemplates the exemption of  
 8 those six exhibits.

9 We have also entered into a stipulation with  
 10 regard to the sealing of the court records, and I believe  
 11 Mr. Hertzberg has copies.

12 MR. PETERSON: I have the original of the stipulations  
 13 and the order. I would present it to the clerk for filing  
 14 and she could give it to the court. Might want to follow  
 15 along.

16 THE COURT: I have read the proposed stipulation and  
 17 order that have been submitted. And the question arises in my  
 18 mind, what about the -- does this dismissal have anything at  
 19 all to do with the underlying case that is presently on  
 20 appeal?

21 MR. FLYNN: It doesn't, Your Honor.

22 Certain issues in that case are going to remain  
 23 on appeal pursuant to the stipulation of the parties.

24 THE COURT: Well, won't those exhibits have to remain  
 25 with the court? As that matter is still on appeal?

26 MR. HERTZBERG: Your Honor --

27 THE COURT: I don't mean the ones that are just sitting  
 28 down in the clerk's office, but I mean the ones that have been

1 marked and received either as an exhibit for identification or  
2 received in evidence in the case.

3 MR. HERTZBERG: I don't believe they all do, Your  
4 Honor.

5 I think that the court of appeal has chosen  
6 certain exhibits, a discrete number of them which they have  
7 before them and they have made that choice, so I don't think --  
8 certainly as Your Honor has recognized, none of the other  
9 documents would be affected, and I don't know how many  
10 documents we are talking about that may be before the court  
11 of appeal --

12 THE COURT: Well, I mean, there is a problem. I don't  
13 know what the court of appeal is going to do.

14 Let's assume they reverse it and send it back for  
15 a new trial. I assume these exhibits will still have to be  
16 used if the case is going to be retried on the underlying  
17 complaint.

18 MR. FLYNN: Pursuant to the issues that are remaining,  
19 Your Honor, I think that the parties' overall stipulation is  
20 such that we will not need those exhibits on any retrial if,  
21 in fact, there is a retrial.

22 I think Mr. Armstrong is satisfied, and I know  
23 I am satisfied, that we won't need them.

24 MR. HERTZBERG: Your Honor, that was a decision that is  
25 part of the agreement that was made, a very important part of  
26 it, may I add an indispensable part of it. And after  
27 Mr. Armstrong consulted with counsel, this is part of what we  
28 bargained for.

1                   So they are willing to proceed on that basis, and  
2 I don't think that the court should get involved, frankly.

3                   THE COURT: Well, I am just trying to raise an issue  
4 here. I don't want six months downstream or a year somebody  
5 to start screaming, "Where are these exhibits? We need to  
6 ~~retry~~ this case."

7                   If the court of appeal does one thing, they  
8 affirm, there may be a petition for hearing with the  
9 California Supreme Court or with the United States Supreme  
10 Court..

11                  MR. HERTZBERG: Your Honor, we contemplated all that.

12                   That is why these negotiations were so arduous  
13 and time consuming, and we have arrived today, all those  
14 possibilities were discussed between our side and Mr. Flynn,  
15 and each side knows what they are bargaining for here. And  
16 Mr. Armstrong has signed a stipulation for return of sealed  
17 materials and exhibits which is before Your Honor.

18                   The order tracks that. It has the additional  
19 language in it that it exempts from the scope of the return  
20 those documents that the federal court might be interested in,  
21 and that is what the agreement was between the parties.

22                  THE COURT: What exhibits does the court of appeal  
23 have?

24                  MR. FLYNN: I am not sure, Your Honor, but I suppose,  
25 having argued the appellate case, I suppose there is a simple  
26 answer, also, to Your Honor's question in light of the  
27 stipulation. The appeals court could always simply request  
28 whatever exhibits it wants from the appellant in that case.

1 THE COURT: In Los Angeles we call it appellant.

2 MR. FLYNN: The appellant, whoever it is, them.

3 THE COURT: That is with the French, Bostonian or  
4 something.

5 MR. HERTZBERG: Your Honor, I am informed that the court  
6 of appeal asked for 50 documents and they have them. So for  
7 the moment, presumably those could not be returned by the  
8 clerk of this court.

9 THE COURT: Well, it is the parties' agreement, then,  
10 but whatever they have got, the county clerk is no longer to  
11 be custodian of those and they will be returned to the parties  
12 by stipulation of the parties.

13 MR. HERTZBERG: That is what we stipulated to in  
14 writing. That is an integral part of this settlement.

15 MR. PETERSON: And when the 50 documents come back --

16 THE COURT: If it is what the parties want to do, it is  
17 okay with me.

18 MR. PETERSON: And when the 50 documents come back from  
19 the court of appeal, they also will be turned over to the  
20 Church.

21 THE COURT: I think that the court would require a  
22 further joint order or stipulation.

23 In other words, I don't want to turn those over  
24 if a remittitur comes down, regardless of what it is, or some  
25 clerk turns them over without knowing whether or not they  
26 might be further needed.

27 MR. HERTZBERG: We agree to that right now.

28 MR. FLYNN: That would be agreeable.

1 THE COURT: Just by stipulation of the parties, it can  
2 be released at that time.

3 MR. HELLER: Your Honor, for what little I can give,  
4 this insight was accurate.

5 This was an issue that was discussed at length  
6 between the parties when negotiations were going on.

7 MR. FLYNN: It is apparently contemplated in  
8 paragraph 3 of the proposed order, Your Honor.

9 THE COURT: Well, this implies that immediately when  
10 they are returned that they be immediately turned over to  
11 the Church without any further --

12 MR. FLYNN: That is agreeable.

13 MR. HERTZBERG: That is agreeable.

14 MR. FLYNN: To Mr. Armstrong.

15 MR. HERTZBERG: This is part of this rather complex  
16 process that we have all agreed on.

17 THE COURT: What is this -- under this stipulated  
18 sealing order paragraph 2 provides that the entire remaining  
19 records of this case, save only this order, the order of  
20 dismissal of the case, and then the order necessary to  
21 effectuate this order and the order of dismissal, are agreed  
22 to be placed under seal of the court.

23 What is it that you have in mind, the file  
24 itself?

25 MR. HERTZBERG: Yes, Your Honor. That is the procedure  
26 that the Church has insisted on and all courts have agreed to  
27 in various other Scientology cases involving Mr. Flynn and  
28 others which have been settled.



1 MR. FLYNN: We settled, Your Honor, several cases in  
2 the federal district court in Tampa, Florida and recently six  
3 cases in the federal district court in Los Angeles.

4 THE COURT: I just want to know what is contemplated so  
5 the clerk won't be running around and --

6 MR. FLYNN: I'd say the entire record, I mean the  
7 court file.

8 THE COURT: There was a reporter's transcript. There  
9 was an original and copies prepared.

10 Of course, those went to the court of appeal.

11 MR. FLYNN: Whatever is in the physical possession of  
12 the court --

13 THE COURT: I guess we are talking just basically this  
14 multiple set of files will be placed under some kind of seal.

15 MR. HERTZBERG: Your Honor, presumably any materials  
16 that come from the court of appeal would then be integrated  
17 under that seal.

18 THE COURT: Yes. That would be so understood:

19 Of course, there have been innumerable people in  
20 the interim who have come forward and examined the file. I  
21 haven't the slightest idea who all those people are, but  
22 certainly we can't go back and retract from them whatever they  
23 have seen or observed or copied.

24 MR. HERTZBERG: We understand, Your Honor.

25 THE COURT: All right. Then, the court will sign the  
26 respective orders.

27 Is that all?

28 MR. FLYNN: Thank you, Your Honor.

1 THE COURT: I guess we should vacate the trial date.

2 Any other motions?

3 MS. DRAGDJEVIC: Mandatory settlement conference.

4 MR. FLYNN: I am sure Your Honor is very sorry to hear  
5 all this.

6 THE COURT: We wish you all good luck in the future.

7 You are all welcome to come back and try more  
8 cases. Some other subject, perhaps.

9 MR. FLYNN: Being from Boston, I'd like to personally  
10 thank you for all your courtesies in the court.

11 THE COURT: Well, we aim to please.

12 MR. HERTZBERG: I don't want to be overly inquisitive,  
13 but has Your Honor signed the order dismissing the case?

14 THE COURT: I signed whatever orders were submitted.  
15 Includes a dismissal.

16 MR. PETERSON: We will verify with the clerk and get a  
17 conformed copy.

18 THE CLERK: Do you have originals of these?

19 MR. HELLER: I think those are all originals.

20 THE CLERK: Originals, but they are copies of documents.

21 MR. PETERSON: I think the problem, some of them were  
22 signed in counterpart.

23 MR. HELLER: We tried to get all signatures on one  
24 because one of them has five or six signatures.

25 THE COURT: Why don't you look over what is there?

26 MR. PETERSON: I think we can work it out with the clerk,  
27 any problems with original versus copy, and take care of it.

28 (At 4:17 p.m. the proceedings were adjourned.)

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GERALD ARMSTRONG,

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No. C 420 153

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA )

COUNTY OF LOS ANGELES )

SS

I, NANCY L. HARRIS, Official Reporter of the Superior Court of the State of California, for the County of Los Angeles, do hereby certify that the foregoing pages, 1 to 8, inclusive, comprise a true and correct transcript of the proceedings held in the above-entitled matter on December 11, 1986.

Dated this 16th day of December, 1986.

Official Reporter, CSR No. 644

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